

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES CLARK,

Plaintiff,

-against-

CYNTHIA BRANN, New York City  
Department of Corrections Commissioner;  
PATSY YANG, Health Director  
Commissioner; MARGARET EGAN, Board  
of Correction Executive Director,

Defendants.

**ORDER OF SERVICE**

20 Civ. 9419 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

On October 7, 2020, pro se Plaintiff James Clark, who is currently incarcerated at the Vernon C. Bain Center (“VCBC”), filed this action alleging that jail officials are failing to protect him from contracting COVID-19 in violation of 42 U.S.C. § 1983 and his Eighth and Fourteenth Amendment rights under the U.S. Constitution.<sup>1</sup> (Second Am. Cmplt. (Dkt. No. 6) at 2) Chief Judge McMahon granted Plaintiff’s application to proceed in forma pauperis on February 8, 2021, and the case was reassigned to this Court the same day. (Order (Dkt. No. 11))

Because Plaintiff has been granted leave to proceed in forma pauperis, he is entitled to have service effected by the U.S. Marshals Service. The Clerk of Court is directed to complete U.S. Marshals Service Process Receipt and Return forms (“USM-285 form”) for Defendants Yang and Egan and issue a summons and deliver to the Marshals Service all of the

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<sup>1</sup> Plaintiff originally filed his Complaint together with 49 other VCBC inmates, and the case was assigned to Judge Daniels, who referred the matter to Magistrate Judge Aaron. See Lee v. Brann, 20 Civ. 8407 (GBD) (SDA) (S.D.N.Y. 2020). Judge Aaron severed the plaintiffs’ claims and directed that they be opened as 49 separate actions. (Order (Dkt. No. 1)) Clark signed an Amended Complaint filed by Plaintiff Lee on December 10, 2020 (Am. Cmplt. (Dkt. No. 4)), and thereafter filed a Second Amended Complaint on January 15, 2021 in which he is the only named Plaintiff. (Second Am. Cmplt. (Dkt. No. 6))

paperwork necessary for the Marshals Service to effect service upon Defendants Yang and Egan. Alternatively, upon receipt of notice from Plaintiff that he wishes to effect service himself, the Clerk of the Court shall issue a summons and deliver it to Plaintiff.

The Clerk of Court is directed to notify the New York City Department of Corrections and the New York City Law Department of this order. The Court requests that Defendant Brann waive service of summons.

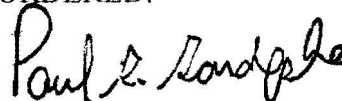
Plaintiff must ensure that service is effected on Defendants Yang and Egan within 90 days of the date the summons is issued. If Plaintiff elects to have service effected by the Marshals Service, it is his responsibility to inquire of the Marshals Service as to whether service has been made and, if necessary, to request an extension of time for service. See *Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). If service has not been made on Defendants Yang and Egan within 90 days from the date the summons is issued, and if Plaintiff has not requested an extension of time to serve within that 90 days, **this action may be dismissed** as to Defendants Yang and Egan pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.

Finally, Plaintiff must promptly notify the Court in writing if his address changes. Failure to do so **may result in dismissal of this action.** Plaintiff is advised that the Pro Se Office at the United States Courthouse, 500 Pearl Street, Room 230, New York, New York 10007, telephone: (212) 805-0175, may be of assistance in connection with court procedures.

Copies mailed by Chambers.

Dated: New York, New York  
February 17, 2021

SO ORDERED.



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Paul G. Gardephe  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Patricia Yang  
Senior Vice President for Correctional Health Services for NYC Health + Hospitals  
55 Water Street, 18<sup>th</sup> Floor  
New York, NY 10041
  
2. Margaret Egan  
Executive Director of the Board of Correction  
1 Centre Street, Room 2213  
New York, NY 10007